

JAN 18 2006**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT****UNITED STATES OF AMERICA,****Plaintiff - Appellee,****v.****DEMETRIO SALDANA-LOPEZ,****Defendant - Appellant.****No. 05-50483****D.C. No. CR-04-02259-DMS****MEMORANDUM***

**Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding**

Submitted January 9, 2006**

Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Demetrio Saldana-Lopez appeals the sentence imposed following his guilty plea to being a deported alien found in the United States in violation of 8 U.S.C. § 1326.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Saldana-Lopez contends that in applying a 16-level adjustment under U.S.S.G. § 2L1.2(b)(A)(ii), the district court committed error under *Shepard v. United States*, 125 S. Ct. 1254 (2005), *Dretke v. Haley*, 541 U.S. 386 (2004), and *Blakely v. Washington*, 542 U.S. 296 (2004), by considering “facts” from his prior state conviction and deportation that were neither admitted by Saldana-Lopez nor found to exist by a jury.

This contention lacks merit. We have continued to hold after *Blakely*, *Haley*, *Shepard*, and *United States v. Booker*, 543 U.S. 220 (2005), that enhancements under U.S.S.G. § 2L1.2 do not implicate the Sixth Amendment. *See United States v. Moreno-Hernandez*, 419 F.3d 906, 914 n.8 (9th Cir. 2005) (rejecting *Blakely/Booker* challenge to enhancement under § 2L1.2(b)(A)(ii)); *see also United States v. Weiland*, 420 F.3d 1062, 1079 n.16 (9th Cir. 2005) (noting that we continue to be bound by the Supreme Court’s holding in *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), that a district court may enhance a sentence on the basis of prior convictions, even if the fact of those convictions was not found by a jury beyond a reasonable doubt).

AFFIRMED.